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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,837	01/16/2002	Keith Edward Buckle	M-4969	1176

7590 08/25/2003

Senior Group Patent Counsel  
The Gillette Company  
Prudential Tower Bldg. - 39th Floor  
Boston, MA 02199

EXAMINER

KALAFUT, STEPHEN J

ART UNIT PAPER NUMBER

1745

DATE MAILED: 08/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/051,837	Applicant(s) BUCKLE ET AL.	
	Examiner Steve Kalafut	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 18 and 19 is/are allowed.

6) ☒ Claim(s) 1-17 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All   b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

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Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There are no antecedents in these claims or their parent claim 5 for "the tapered portion", "said tapered interior wall" or "the tapered interior wall". Should these claims be instead dependent on claim 7?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5-9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fields (US 6,089,072).

Fields discloses a method for making a can, starting with forming a metal sheet (2) into a can cylinder (4) which includes a sidewall and an end wall connected thereto (figure 1b). The end wall (8) is then pushed back partially through the sidewall (10), and thus toward its interior (figures 1c and 1d). This would form a recess as presently claimed, as well as interior recess walls which are pushed towards the sidewall. As seen in figures 1c through 1g, the interior recess walls and sidewall are tapered. The distance between these is decreased (figures 1e

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through 1g), forming a radiused transition portion (20), which is gradually formed into a sharp edge (26). The recitation of intended use ("battery") does not distinguish.

Claims 5-9, 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Malay (US 6,402,794).

Malay discloses a method for making a battery can (132), starting with forming a metal sheet (132A) into a can cylinder (132B) which includes a sidewall and an end wall (190) connected thereto (figures 13A and 13B). The end wall is then pushed back through the sidewall, and thus toward its interior (figures 13C and 13D) and partially through the sidewall. This would form a recess as presently claimed, as well as interior recess walls which are pushed towards the sidewall. The recess walls and sidewall are then tapered (figure 13E). A radiused transitional portion (142) is formed, and then converted into a sharp edge, as the can is compressed onto the top of a battery to form a seal (figures 3-7).

Claims 1-4 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by either Huq *et al.* (US 6,447,947) or Ferraro *et al.* (US 5,626,799).

Huq *et al.* disclose a battery can (60) which may have a wall thickness of 0.001 inches (column 8, lines 15-18), which would fall into the ranges recited in all these claims. This can is stamped into shape (column 8, lines 19-21), which would meet the "forming" step in claims 1-4.

Ferraro *et al.* disclose a battery can (10) with a sidewall (20) which may have a thickness of 0.002 inches (column 3, lines 39-41), which would fall into the ranges recited in all these claims. A flat sheet of material is formed into the can, as seen in figures 2 and 3.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Fields or Malay, each in view of Ringler (US 3,581,691).

These claims differ from Fields and Malay by reciting a trimming step, preceded (in claim 11) by a step of turning the battery can over. Ringler teaches that "[i]n any can body, at least one end is irregular and requires trimming before a lid can be applied to the can body" (column 1, lines 16-18). Since the cans of Fields and Malay are to be attached to other objects, the irregularities disclosed by Ringler could be a potential problem. For this reason, it would be obvious to trim the cans of Fields or Malay as taught by Ringler. Turning the can over would be an obvious expedient, to properly align the can with the machine which performs the trimming operation, such as the machine disclosed by Ringler.

Claims 18 and 19 are allowed. A battery can with the recited thickness ranges for its sidewall and for a radiused transition portion is not disclosed by the prior art applied above, or cited either below or by applicant.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ohmura *et al.* (US 6,485,863) and Moriyama *et al.* (US 5,968,682) disclose various battery containers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Kalafut whose telephone number is 703-308-0433. The examiner can normally be reached on Mon-Fri 8 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

sjk



STEPHEN KALAFUT  
PRIMARY EXAMINER  
GROUP 1

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